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UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF NEVADA

In re:

No. 08-23761-MKN

Steve Herbert Hofsaess.

Chapter 11

Debtors.

OBJECTION TO AMENDED CHAPTER 11 PLAN

**DATE 9/23/09 - TIME 9:30 PM
THIRD FLOOR,
COURTROOM NO. 2
300 LAS VEGAS BLVD. SOUTH**

DCFS USA, LLC, a party in interest, hereby objects to the Amended Chapter 11 Plan filed August 7, 2009, for the reasons set forth in this memorandum.

1. FACTUAL BACKGROUND

DCFS USA, LLC is a secured creditor of debtor ("debtor" means Steve Herbert Hofsaess whether single or plural) on the following personal property:

2006 DODGE RAM

VIN # 3D7KS28C06G103121

("the collateral"). DCFS USA, LLC possesses a valid, perfected, first priority lien against the collateral. The lien and the debt which it secures are evidenced by a retail

1 installment contract executed by debtor on January 4, 2006, and a lien filing receipt,
2 copies of which are attached hereto as Exhibits "A" and "B".

3 The unpaid balance of the debt is \$21,635.65 plus accrued and accruing
4 interest, costs and attorneys' fees. The debtor has been in default to DCFS, USA, LLC
5 on this loan since January 4, 2009. Debtor's plan states that Debtor began to make
6 adequate protection payments each month beginning in February, 2009. Debtor made a
7 payment of \$500.00 on February 18, 2009; a payment of \$400.00 on March 16, 2009; a
8 payment of \$400.00 on April 10, 2009; a payment of \$400.00 on June 1, 2009; a
9 payment of \$400.00 on July 14, 2009.

10 Debtor's plan proposes to pay DCFS USA, LLC \$11,000.00 on its secured
11 loan together with interest thereon at the rate of seven percent (7%) per annum and
12 \$339.65 per month for 36 months. DCFS USA, LLC objects to its treatment under the
13 plan.

14 **2. LEGAL ARGUMENT**

15 A. Debtor has undervalued the vehicle securing the loan.

16 Debtor has undervalued the vehicle which secures the loan to DCFS USA,
17 LLC. Debtor valued the vehicle at \$11,000.00. The low Kelley Blue Book price of the
18 vehicle is \$18,425.00, auction value as evidenced by the attached Exhibit C. The high
19 Blue Book value is \$25,990.00 (FMV). Debtor has undervalued the vehicle. Chrysler
20 has been trying to negotiate with Debtor's counsel, but have been unable to reach an
21 amount acceptable to both parties.

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1 3. **CONCLUSION**

2 For the reasons that the vehicle securing DCFS USA, LLC's loan is
3 undervalued, DCFS USA, LLC requests that this Court deny confirmation of debtor's
4 Chapter 11 Plan.

5 DATED this 5th day of September, 2009.

6 Poli & Ball, P.L.C.

7
8 By/s/ James E. Shively, #5497
9 James B. Ball
10 James E. Shively
11 601 S. 7th Street, Second Floor
12 Las Vegas, Nevada 89101
13 Attorneys for DCFS USA, LLC

14 COPIES of the foregoing mailed
15 this 8th day of September, 2009, to:

16 Steve Herbert Hofsaess
17 3808 Fairway Circle
18 Las Vegas, NV 89108
19 Debtor

20 Christopher G. Gellner
21 302 E. Carson Ave. #808
22 Las Vegas, NV 89101
23 Attorney for debtor

24 U.S. Trustee
25 300 Las Vegas Blvd. S
26 Suite 4300
27 Las Vegas, NV 89101
28 Trustee

29 /s/ Chris Durazo
30 f:\apps\hotdocs\templates\nevada\chapter 13 plan objections (1017).rtf

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